

Congress of the United States

House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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September 3, 2013

Mr. Wayne Natri
Co-president, E4 Strategic Solutions and
Former Regional Administrator, USEPA Region 9
E4 Strategic Solutions, Inc.
26895 Aliso Creek Road
Suite B-409
Aliso Viejo, CA 92656

Dear Mr. Natri:

On behalf of the Committee on Science, Space, and Technology, I want to express my appreciation for your participation in the August 1, 2013 hearing titled, "EPA's Bristol Bay Watershed Assessment – A Factual Review of a Hypothetical Scenario."

I have attached a verbatim transcript of the hearing for your review. The Committee's rule pertaining to the printing of transcripts is as follows:

The transcripts of those hearings conducted by the Committee and Subcommittees shall be published as a substantially verbatim account of remarks actually made during the proceedings, subject only to technical, grammatical, and typographical corrections authorized by the person making the remarks involved.

Transcript edits, if any, should be submitted no later than September 17, 2013. If no edits are received by the above date, I will presume that you have no suggested edits to the transcript.

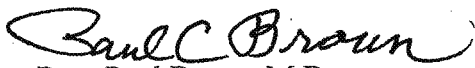
I am also enclosing questions submitted for the record by Members of the Committee. These are questions that the Members were unable to pursue during the time allotted at the hearing, but felt were important to address as part of the official record. **All of the enclosed questions must be responded to no later than September 17, 2013.**

All transcript edits and responses to the enclosed questions should be submitted to me and directed to the attention of Ms. Sarah Grady at Sarah.Grady@mail.house.gov. If you have any further questions or concerns, please contact Ms. Grady at (202) 225-6371.

Mr. Nastri
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Thank you again for your testimony.

Sincerely,

A handwritten signature in black ink, reading "Paul C. Broun". The signature is fluid and cursive, with the first name "Paul" and last name "Broun" clearly legible, and "C." as a middle initial.

Rep. Paul Broun, M.D.
Chairman
Subcommittee on Oversight

cc: Rep. Dan Maffei
Ranking Member
Subcommittee on Oversight

Enclosures: Transcript & Member Questions

HOUSE COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY
SUBCOMMITTEE ON OVERSIGHT

“EPA’s Bristol Bay Watershed Assessment – A Factual Review of a Hypothetical Scenario”

QUESTIONS FOR THE RECORD

Mr. Wayne Nastri, Co-president, E4 Strategic Solutions;
Former Regional Administrator, USEPA Region 9

Questions submitted by Chairman Paul Broun

- 1) In an April 2013 letter to the Committee, EPA states that the “Bristol Bay Watershed Assessment is being conducted as an ecological risk assessment.” Does either the May 2012 or the April 2013 versions of EPA’s document meet agency guidelines for an ecological risk assessment?
- 2) Did you come up with the idea that EPA should or could consider a preemptive veto of a mine plan in the Bristol Bay area under either Section 404(c) of the Clean Water Act or via a watershed assessment? If not, when did you first learn of such a possibility in regards to Bristol Bay and from whom?
- 3) What are the limitations of EPA’s watershed assessment, and has the agency been upfront in acknowledging them?
- 4) You stated during the hearing that allowing Pebble to present a plan to go through the NEPA process would result in environmental harm. Despite being given multiple opportunities to clarify your comments, your answers seemed to be based on economic and cultural reasons. I ask you once again: what possible environmental harm could occur between today and a decision on a Pebble mine proposal following a NEPA process that a preemptive EPA veto might avoid?
- 5) Are you aware that during the public comment period following release of EPA’s revised draft watershed assessment this year, a group you once considered a client, Trout Unlimited, encouraged visitors to its website to comment on the assessment, and those who told a friend to comment were automatically entered in a drawing to win a free fishing trip to Bristol Bay?
 - a. As a former Regional Administrator for EPA, if you had learned that a mining company was employing similar tactics to encourage comments on an EIS, would you have any questions or concerns about the integrity of those comments?
- 6) Did you participate in a conference call with Dennis J. McLerran, Regional Administrator, USEPA Region 10, on April 22, 2013, four days before the EPA released its revised Bristol Bay assessment?
 - a. If so, what was discussed and what was your role on the conference call?
 - b. Who initiated scheduling the call?

- c. How were you invited to participate in the call and who invited you?
 - d. Were any representatives of the Pebble Partnership invited to participate in the call? Did they?
 - e. Was there anyone on the call who supported allowing the Pebble Partnership to submit a mine application? If yes, who?
- 7) Do you believe the EPA should do anything it can to prevent any mining activity in Bristol Bay?

Questions submitted by Rep. David Schweikert (R-AZ)

- 1) Following are a series of questions that merely require a 'Yes' or 'No' response. Please do not expend any additional time on expanding your responses because a 'Yes' or 'No' reply will sufficiently address my concerns:
- a. As a former Regional Administrator for EPA, is it fair to say that EPA has the capacity to conduct reviews of complex projects for development when a project proponent submits an application for a permit under the Clean Water Act?
 - b. Is EPA able to work with the U.S. Army Corps of Engineers to ensure that its concerns regarding environmental impacts of a project are known?
 - c. Does EPA have the expertise to review a project application and make a sound determination whether a project should receive permit authorization under the Clean Water Act?
 - d. Does the National Environmental Policy Act (NEPA) require an action agency to take a hard look at all reasonable alternatives to a proposed project requiring federal action?
 - e. As a former Regional Administrator for EPA, did you support robust reviews of permit applications including examination of alternatives?
 - f. As such, are specific answers to a project's components and the background area considered to be important facts requiring review prior to a permitting decision going forward under the Clean Water Act?
 - g. Are the economic impacts of a proposed project and the employment provided by the project considered to be important factors in a project's review?
 - h. When you were Regional Administrator, did you consider the impact of jobs and economic benefits of proposed projects that sought approval from EPA and Region 9?
 - i. Is it fair to say that it is difficult to review a hypothetical project or a project that may have inaccurate or incomplete aspects in its project description?
 - j. Is it true that one of the requirements for a complete application for a Clean Water Act permit is a fully described and accurate project description?
 - k. Have you reviewed an accurate and current project description for the Pebble Project?
 - l. Do you know exactly where the proposed tailings facility will be located for the Pebble Project?
 - m. Do you know exactly how the tailings facility will be constructed?

- n. Do you know what specific mitigation proposals the Pebble Project has made to address environmental impacts?
- o. Other than the size of a mine, does the current Bristol Bay Watershed Assessment examine any alternatives?

Questions submitted by Rep. Daniel Maffei (D-NY)

Mr. Kavanaugh described the EPA draft assessment as having “significantly exaggerate both the probability of failures of engineering mining components and the environmental consequences of the failure scenarios. It is my understanding that even absent failure, the environmental impact of mining the Pebble prospect is found in the draft assessment as being severely damaging to the wetlands used by salmon for spawning. Would you care to comment on the picture painted by Mr. Kavanaugh of the draft assessment’s overstating failure scenarios, their impacts and understating how technology can meet all potential environmental threats?